

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE HEALTH MANAGEMENT, INC.
SECURITIES LITIGATION

THIS DOCUMENT RELATES TO:
ALL ACTIONS

Civil Action No. 96-CV-889 (ADS)(ARL)

ELECTRONICALLY FILED

FILED

CLASS ACTION IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ JAN 07 2010 ★

LONG ISLAND OFFICE

**[PROPOSED] ORDER APPROVING DISTRIBUTION
OF REMAINING NET SETTLEMENT FUND**

WHEREAS, this Court previously entered orders in 1998 and 2001 approving of distribution of Settlement Funds obtained in connection with partial settlements made in connection with this securities class action (*see* Docket Nos. 166 and 368); and

WHEREAS, after distributions made to claimants pursuant to this Court's prior orders, funds remain in the Net Settlement Fund account as a result of uncashed checks and checks returned as undeliverable; and

WHEREAS, all outstanding uncashed and undeliverable checks issued pursuant to this Court's prior distribution orders are stale-dated; and

WHEREAS, Co-Lead Counsel for Plaintiffs and the Claims Administrator, the Garden City Group ("GCG") now seek authorization to distribute the money remaining in the Net Settlement Fund to claimants previously approved of by this Court who cashed checks they received pursuant to this Court's prior distribution orders in amounts pro rated to such claimants' Recognized Losses; and

WHEREAS, this Court has retained jurisdiction of this Action for the purpose of considering any further application or matter which may arise in connection with the administration and execution of the previously approved of distributions of the Net Settlement Fund;

NOW, THEREFORE, upon reading the: (1) Joint Declaration of Joel B. Strauss and Jeffrey C. Zwerling in Support of Lead Plaintiffs' *Ex-Parte* Motion for Final Distribution of Remaining Net Settlement Fund; and (2) Affidavit of Stephen J. Cirami of the GCG, and upon all prior proceedings heretofore had herein, and after due deliberation, it is hereby

ORDERED, ADJUDGED and DECREED as follows:

1. Lead Plaintiffs' Motion for an Order Approving Distribution of the Remaining Net Settlement Fund is hereby granted.

2. Co-Lead Counsel and GCG's recommendation that outstanding checks issued to claimants pursuant to this Court's prior distribution orders that were uncashed or undeliverable be deemed invalid is hereby approved.

3. The money remaining in the Net Settlement Fund shall be distributed by GCG, as soon as practicable, to those claimants who cashed checks they received pursuant to prior distributions approved by this Court in amounts pro rated to reflect their Recognized Losses, provided that the claimant's pro rata share of the distribution will be at least \$10. All checks issued pursuant to this distribution shall bear the legend "CASH PROMPTLY - VOID 120 DAYS AFTER ISSUE DATE."

4. Prior to the issuance of checks, GCG shall run a search of addresses of claimants who are to receive a check pursuant to this distribution through the National Change of Address or similar database and update claimants' addresses as appropriate. If a current address cannot be found for a claimant who would otherwise receive a check under this distribution, then the funds that would have been distributed to such claimant(s) shall be distributed on a pro rata basis to the claimants who are otherwise eligible to receive a distribution pursuant to this Order.

5. GCG shall be paid the amount of up to \$8,960.46 from the Net Settlement Fund for its fees and expenses expected to be incurred in connection with the distribution.

6. If any balance remains in the Net Settlement Fund account six months after distribution is made pursuant to this Order, then such funds shall be donated to the American Cancer Society.

*ADS
UCAP*

7. GCG may destroy all paper and electronic records concerning claims filed in this action ~~one year~~ ^{THREE YEARS} after the Net Settlement Fund account has been closed.

8. This Court shall retain jurisdiction over any ~~further~~ application or matter that may arise in connection with this action.

9. All persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the claims filed herein, or otherwise involved in the administration of the Settlement Fund or the Net Settlement Fund are released and discharged from any and all claims arising out of such involvement, and all Class members, whether or not they are to receive payment from the Net Settlement Fund, are ~~barred~~ from making any further claim against the Net Settlement Fund or the released persons.

Dated: Jan 7, 2009
2010

Arthur D. Spatt

HONORABLE ARTHUR D. SPATT
SENIOR UNITED STATES DISTRICT JUDGE